

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **VICE CHAIR MIKE COONEY**, on February 7, 2005 at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Carolyn Squires, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Vicki Cocchiarella (D)
Sen. Mike Cooney (D)
Sen. Jon Ellingson (D)
Sen. Jeff Essmann (R)
Sen. Steven Gallus (D)
Sen. Rick Laible (R)
Sen. Dave Lewis (R)
Sen. Jim Shockley (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Branch
Claudia Johnson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:	Confirmation Hearings: Dr. Robert Wynia , Department of Health and Human Services; Dan Bucks , Department of Revenue; Jim Lynch , Department of Transportation
Executive Action:	None.

Dr. Robert E. Wynia, MD - Director, Department of Public Health and Human Services (DPHHS)

Dr. Robert Wynia served as a senior airman medical examiner for the Federal Aviation Administration, and practiced internal medicine in private practice in Great Falls. He has served as the medical director for Region IIA, Montana Medical Services, and practiced internal medicine for the Northwest Medical Group. He is a past president of the Montana Medical Association. He was a Republican State Senate candidate in the 2004 primary for SD 10 in Great Falls. Dr. Wynia is a graduate of Poplar High School and studied pre-med at Eastern Montana College. He received his bachelor's degree and M.D. from the University of Washington, and did his internal medicine residency with the University of Michigan. Dr. Wynia is married to Winona; they have four grown children.

Dr. Wynia provided copies of his presentation, biography, and resume, and proceeded to read from his presentation.

EXHIBIT(sts30a01)

EXHIBIT(sts30a02)

EXHIBIT(sts30a03)

{Tape: 1; Side: A; Approx. Time Counter: 15}

SEN. MIKE COONEY, SD 40, HELENA, asked Dr. Wynia to list the major issues facing the Department. **Dr. Wynia** stated the number of people on waiting lists were a concern.

{Tape: 1; Side: A; Approx. Time Counter: 17.5}

SEN. CAROLYN SQUIRES, SD 48, MISSOULA, wondered which list he was referring to. **Dr. Wynia** replied it was the elderly, children waiting to get on the CHIP program, and people waiting to enter nursing homes.

{Tape: 1; Side: A; Approx. Time Counter: 18.8}

SEN. VICKI COCCHIARELLA, SD 47, MISSOULA, noted that Dr. Wynia had run as a Conservative for a seat in the Legislature, and asked how his political affiliation would impact his job. **Dr. Wynia** replied the job was not partisan as it required taking care of every Montanan; he added he was conservative in that he believed in teaching self-reliance and independence.

SEN. COCCHIARELLA contended the Department was too large and should be divided into two separate entities; she asked how he

would deal with the financial impact a separation would entail.

Dr. Wynia stated he had limited knowledge in accounting and would rely on John Chappius.

{Tape: 1; Side: B}

SEN. COCCHIARELLA wondered whether he was registered as a lobbyist and would incorporate lobbying into his role as Director. **Dr. Wynia** replied he was more inclined to give information and would not lobby unless requested; he added he was not a registered lobbyist.

{Tape: 1; Side: B; Approx. Time Counter: 0.8}

SEN. JOSEPH TROPILA, SD 13, GREAT FALLS, advised he had received several letters from constituents opposing Dr. Wynia's nomination. He read from one, which said, "Dr. Wynia has a public history of arguing against payments and services to the indigent; he expressed his practice philosophy when he said that all societal problems are of a moral, spiritual, and behavioral nature that government cannot do anything about. This does not appear to be the philosophy of a medical professional dedicated to improving public health; part of this philosophy should be to improve access to healthcare, reduce the number of under-insured and uninsured, and reduce the high cost of medicines." **SEN. TROPILA** asked Dr. Wynia to respond to these charges. **Dr. Wynia** stated some of the quotes were taken out of context; he had never taken a position against funding for the under-insured or uninsured. He felt the perception dated back to the time when he had publicly supported a Medical Savings Account program. As to the first part of the letter, he contended that newborns need feeding, changing, and love; and it is out of this care that we develop morally and spiritually, not from government programs. He believed that improving care from the onset would help improve today's societal ills.

SEN. TROPILA asked whether he was an advocate for public health, which **Dr. Wynia** confirmed. **SEN. TROPILA** stated, according to another letter, he was not a public health advocate, having treated mainly adults in his 42 years of medical practice; the author of the letter contended he never engaged in family or public health education. **Dr. Wynia** stated while it was true he had treated mainly adults, he did see many younger people who had not been properly advised as to nutrition, exercise, and health issues; he contended it was his goal as the Department's director to focus and concentrate his efforts on the younger generation in order to improve these three areas.

{Tape: 1; Side: B; Approx. Time Counter: 0.1 - 6.7}

SEN. DAVE LEWIS, SD 42, HELENA, saw the advertisement for a new Deputy Director for DPHHS at a yearly salary of \$70,000, and asked what this position's responsibilities would be. **Dr. Wynia** advised three divisions, namely child development, child protection, and public health and safety, which served both Medicaid and Public Health, have a high volume of mail and telecommunication; he felt the public would be better served if there was another deputy to take control of these areas.

{Tape: 1; Side: B; Approx. Time Counter: 9.9}

SEN. RICK LAIBLE, SD 44, VICTOR, asked Dr. Wynia to explain the term "Simple Care". **Dr. Wynia** summarized "Simple Care" was a concept developed because of financial problems which arose from managed care; physicians found themselves losing money, even though they were seeing more patients, because of the managed care timeframe. They found they could extend a 40% discount to their patients if they paid cash at the time of service, without going through the bureaucracy of managed care.

SEN. LAIBLE surmised this "Simple Care" program would not apply to clients of DPHHS. **Dr. Wynia** contended it could be applied, and suggested it could be done through the use of vouchers.

SEN. LAIBLE referred to the thirty-some bills dealing with DPHHS issues, and asked which of these he considered a top priority. **Dr. Wynia** felt the most important issue was the redesign of the Medicaid program, such as extending choice of services and facility; trying to keep people from hiding their assets in order to qualify for the program; and determining whether well-to-do people could contribute for services to their disabled children or other family members.

SEN. LAIBLE stated one of the biggest problems facing the State was the proliferation of methamphetamine use and its impact on families. He asked Dr. Wynia whether he envisioned a program to better serve the needs of families affected by it. **Dr. Wynia** contended curing the addict would take five years of intensive treatment; the chemicals involved were highly toxic and would saturate clothing, and the children involved would need all new clothes. He was not sure such a program was in the works.

{Tape: 1; Side: B; Approx. Time Counter: 9.9 - 19.9}

SEN. JON ELLINGSON, SD 49, MISSOULA, noted that DPHHS was a very large agency, and he was in charge of procuring funds for all programs, adding disagreements would arise over funding one program over another; he asked Dr. Wynia about his strategies for dealing with this. **Dr. Wynia** referred to his presentation where

he had talked about this very issue, stating that money could not simply be moved from one program to another, and be effective. The way to address the issue was to improve the effectiveness and efficiency of the service in order to free up funds, which would allow serving additional clients. **Dr. Wynia** contended it was most important to stimulate the economy so that more funds were available to fund the Department's programs.

{Tape: 2; Side: A}

Dan Bucks, Director - Department of Revenue

Mr. Bucks' most recent position was as Executive Director of the Multi-State Tax Commission. He served as the Deputy Director of the Montana Department of Revenue from 1981-1988, and also worked as the chief tax policy advisor to South Dakota's Governor. Mr. Bucks graduated from Doland High School in Doland, South Dakota. He received his bachelor's degree from Grinnell College in Grinnell, Iowa, and his master's degree from the University of Montana. He is married to Jane Bucks, and they have six children and one grandchild.

Mr. Bucks submitted copies of his resume and presentation, and provided a brief overview of his career, and read from his presentation.

EXHIBIT(sts30a04)

EXHIBIT(sts30a05)

{Tape: 2; Side: A; Approx. Time Counter: 11.7}

SEN. LAIBLE asked for Mr. Bucks' perspective on how well Montana was doing with regard to tax collection, and which areas needed improvement. **Mr. Bucks** replied that Montana was in good shape with regard to tax collection because of a high compliance factor. Improvement was needed in the area of income earned in Montana by multi-state companies, and by non-residents; those areas included the use of tax shelters, and capital gains realized on the sale of real property by non-residents. He added he would ask the Legislature to improve the laws in these areas in order to close existing loopholes.

SEN. LAIBLE asked how payment of tobacco taxes could be improved since people imported tobacco products from out-of-state; he referred to Mr. Buck's recent statement, requesting access to the buyers' credit card transactions as a way to track these illegal purchases. **Mr. Bucks** stated he was not advocating the tracking of credit card purchases but had proposed working with financial institutions to encourage them not to do business with businesses

selling contraband into Montana. He added such a program was being developed, on a voluntary basis, with the National Association of Attorneys General, the Departments of Justice, and financial institutions. He stated the State should consider options of requiring compliance if this could not be accomplished on a voluntary basis.

SEN. LAIBLE stated the same applied to the purchase of prescription drugs from Canada, and asked if these purchases would be included in the same category. **Mr. Bucks** could not speak to the larger issue but maintained companies should not facilitate illegal transactions. He stated, due to voter approved measures, Montana had the third highest tax on tobacco products in the nation; the purpose was not to raise revenue but to discourage smoking.

{Tape: 2; Side: A; Approx. Time Counter: 21.2}

SEN. JOE BALYEAT, SD 34, BOZEMAN, stated Montana had the highest income and capital gains tax rates in the nation, and wondered whether the Governor would honor the reductions proposed by the previous Administration. **Mr. Bucks** replied discussions with the Governor had not revealed any planned change in these areas.

SEN. BALYEAT stated the measure to reduce the capitals gains tax was passed because it was widely held that it would keep businesses from leaving the State; he asked for Mr. Bucks' thoughts about taxpayer response should it be repealed this Session. **Mr. Bucks** advised he had not heard that a repeal was imminent; he added he had not seen the studies which would confirm or dispute the assumption. As to the high income tax rates, he advised there was a distinction between the effective rates, which were much more competitive around the country, and the statutory rates.

SEN. BALYEAT stated that the bill repealing the reduction in capital gains tax had passed the Senate, and asked his opinion of how taxpayers would respond to this. **Mr. Bucks** advised there were a variety of capital gains taxes which may or may not have a direct connection to the State's economy; and the effect on the State's economy of those who chose to leave was unclear as their primary investments tended to be outside of Montana anyway. He contended that investment decisions were based primarily on earnings potential rather than on tax rates.

{Tape: 2; Side: B}

SEN. BALYEAT claimed that stock market investors could be leaving the State for tax reasons, resulting in less tax collected. **Mr.**

Bucks disputed the significance of any tax loss as he did not anticipate a large number of businesses would leave; he contended they came to Montana because they enjoyed what Montana had to offer, regardless of the tax rates.

SEN. JEFF ESSMANN, SD 28, BILLINGS, referred to a pending lawsuit pertaining to private corporations' tax returns, and asked him to address this issue, and its effect on the Department's ability to work with the Multi-State Tax Commission. **Mr. Bucks** reviewed the issues of the lawsuit with the Committee, saying the judge may not issue a definite ruling as to what the department may or may not disclose. He stated that if it was ruled everything was open to disclosure, it would severely impact the Department's ability to exchange information with the Multi-State Tax Commission, with other states and, most significantly, with the Internal Revenue Service, and it would have a serious impact on corporate income tax laws. To mitigate these issues, he favored a limited expanded disclosure.

{Tape: 2; Side: B; Approx. Time Counter: 7.2}

SEN. COCCHIARELLA asked whether he was registered as a lobbyist, which **Mr. Bucks** denied, adding there were employees within the Department who were registered lobbyists.

SEN. COCCHIARELLA inquired whether he had any re-organization plans for the Department. **Mr. Bucks** stated he did not have any fixed plans but would, upon adjournment of the Legislature, conduct a thorough review of the structure, organization, and the working procedure in terms of relationship between supervisors and employees; his goal was good communications throughout the Department, as outlined in his presentation. He pledged he would organize with results and accountability in mind, and ensure teamwork providing the best possible results for the citizens of Montana.

{Tape: 2; Side: B; Approx. Time Counter: 11.5}

SEN. LEWIS referred to Mr. Bucks' statement that an additional \$15 million could be collected per year if everyone paid their taxes, and asked how he would accomplish this. **Mr. Bucks** advised he would employ the wide-spread practice of requiring a withholding tax on the sale of real property by non-residents since too many leave the State after the transaction. He contended there were large gaps in the reporting system, some of which would have to be remedied on a national basis, but there were some which could be identified and remedied by the State. Addressing the issue of illegal tobacco sales again, he emphasized the focus should be on the out-of-state seller and not

the purchaser.

SEN. LEWIS was still concerned with the tracking of credit card purchases. **Mr. Bucks** stressed this was not at all what he was advocating, and he would not support it; he added there were reporting mechanisms with regard to purchases which did not require invading people's privacy by looking at credit card transactions.

{Tape: 2; Side: B; Approx. Time Counter: 19.3}

Jim Lynch, Director - Department of Transportation

Mr. Lynch was the Public Policy Advisor for Oldcastle Materials NW Group in Kalispell. He worked as the President and CEO for Pack & Company in Kalispell for fifteen years, and spent eight years as the General Manager of Highway Maintenance for Johanson Construction in Spokane, Washington. Lynch is a pilot, with airplane single-engine land, multi-engine, instrument, and helicopter ratings. He graduated from Gonzaga Prep in Spokane, and received his bachelor's of science degree from Kean University in Union, New Jersey. He is married to Pam and they have two sons and one daughter.

Mr. Lynch provided copies of his biography, resume, and mission statement, and gave a brief overview of his career.

EXHIBIT(sts30a06)

EXHIBIT(sts30a07)

{Tape: 3; Side: A; Approx. Time Counter: 1.3}

SEN. COONEY asked Mr. Lynch which areas in his job experience qualified him for the job, and where he wanted the Department of Transportation to be in four years. **Mr. Lynch** stated he had worked with the Department since 1986, and felt his extensive experience in road construction qualified him for the job; he had been involved in the Highway 93 project, served on the Kalispell Transportation Committee for two terms, and had an extensive background in aeronautics.

As far as his goals for the Department, **Mr. Lynch** stated the Department was providing quality work and safe highways to the citizens of Montana, but he wanted to take it a step further by finding solutions and providing answers to the people of Montana, and by working on projects together with other agencies, such as the Environmental Protection Agency (EPA), the Department of Environmental Quality (DEQ), the Fish, Wildlife and Parks Department (FWP), and the Department of Natural Resources and

Conservation (DNRC), as well as the Federal Highway Administration and local communities. **Mr. Lynch** discussed Montana's unique demographics, saying what may work in Bozeman would not necessarily work in Butte. He advised that the Department had a system in place which analysed and studied the highway system, and identified where new highways were needed and whether others needed to be repaired, always keeping economic impact and development in mind.

{Tape: 3; Side: A; Approx. Time Counter: 11}

SEN. COONEY referred to the fines Pack & Company had received while he was at the helm, and asked that he address this issue. **Mr. Lynch** stated this happened 15 years ago, and industry standards were different from those in place now.

Note: The tape quality is very poor; please refer to the enclosed Associated Press article for details.

[EXHIBIT](#)(sts30a08)

{Tape: 3; Side: A; Approx. Time Counter: 16.5}

SEN. ESSMANN stated that in urban planning areas, transportation funds went directly to the communities for planning and administration but the process was very slow; he asked **Mr. Lynch** if he would implement a change so that the funds were released in a more timely fashion. **Mr. Lynch** explained that there were certain funding mechanisms the department had to heed, but felt there was some flexibility to speeding things up. He added the Department worked very hard to secure Federal highway dollars to benefit the State.

SEN. ESSMANN requested that **Mr. Lynch** look into the possibility of delegating project administration to local communities. **Mr. Lynch** stated that he would.

{Tape: 3; Side: A; Approx. Time Counter: 22.9}

SEN. LAIBLE referred to a company called CRH, and asked **Mr. Lynch** who they were. **Mr. Lynch** advised it was the European company which owned Oldcastle Materials, and was located in Dublin, Ireland.

SEN. LAIBLE stated that CRH owned other construction-related businesses in Montana, and wondered if this would present any conflict of interest for him in his capacity of awarding highway construction contracts.

Mr. Lynch advised there was no conflict of interest.

{Tape: 3; Side: A; Approx. Time Counter: 25.7}

SEN. LEWIS requested that Mr. Lynch see the planned interstate interchange in Helena come to fruition as it was a critical addition to the city's commerce, and had been many years in the planning.

Mr. Lynch stated these were the kinds of requests which he wanted the department to deal with in a positive and pro-active manner.

SEN. SQUIRES wondered whether he had any plans for privatizing departments within his jurisdiction, such as the snow plow division.

{Tape: 3; Side: B}

Mr. Lynch stated he would scrutinize each department, adding that as Director, he had to consider every avenue which would save the taxpayer money and, at the same time, provide the best available service.

{Tape: 3; Side: B; Approx. Time Counter: 4.5}

SEN. COCCHIARELLA asked Mr. Lynch's opinion on round-about's.

Mr. Lynch stated his role as Director was to ensure the Department took a pro-active stance, and looked for solutions while remaining open to new ideas. He favored looking at the concept as it might work well in some areas; he added such an addition would ultimately be up to the communities.

SEN. COONEY asked about his commitment to traffic safety. **Mr. Lynch** advised, as Director of the Department and the Governor's Appointee to the Traffic Safety Council, he took this responsibility very seriously. This included support for the open container and seatbelt legislation, as well as proper placement of highway signs and safe highway design. He stated one of his goals was to have the stripes painted on every single highway by July 1.

{Tape: 3; Side: B; Approx. Time Counter: 3 - 14.2}

Note: Copies of newspaper articles relating to DPHHS were supplied after the meeting.

EXHIBIT (sts30a09)

ADJOURNMENT

Adjournment: 5:45 P.M.

SEN. CAROLYN SQUIRES, Chairman

CLAUDIA JOHNSON, Secretary

MARION MOOD, Transcriber

CS/cj/mm

Additional Exhibits:

EXHIBIT ([sts30aad0.PDF](#))